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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/160,604	09/25/1998	HITOSHI HASHIMOTO	980624/LH	6549

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NEW YORK, NY 100172023

EXAMINER

VU, NGOC YEN T

ART UNIT	PAPER NUMBER
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2612

12

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/160,604

Applicant(s)

HASHIMOTO, HITOSHI

Examiner

Ngoc-Yen T. Vu

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3 and 5-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/07/2004 has been entered.

Response to Amendment

2. The amendments, filed on 03/16/2004, have been entered and made of record.

The Applicant's arguments filed 03/16/2004 have been fully considered but they are not persuasive. The Applicant's arguments will be addressed in the context of the rejected claims.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1 and 16 are rejected under 35 U. S. C. 103 (a) as being unpatentable over Parulski et al. (US #5,563,658) in view of Suda et al. (US #6,088,060).

Regarding claim 1, Parulski '658 teaches an auto-focusing apparatus comprising:
an image pickup section (Figs. 1-2, image sensor 20) which has an imaging plane on which a subject image is formed, and generates an image signal (col. 4 lines 28-64);
a focusing section (Fig. 1, processor section 35) for selectively executing an ordinary mode of reading an image signal from an entirety of the imaging plane of said image pickup

section and performing focusing at an ordinary frame rate (col. 5 lines 18-27), and a high speed mode ("fast flush focus mode") of reading an image signal from a predetermined portion (Fig. 3, center region 66) of the imaging plane of said image pickup section and performing focusing at a high speed frame rate (col. 4 line 65 - col. 5 line 17; col. 5 line 28 - col. 6 line 23);

an operation section (capture button 16) for instructing a release operation (col. 5 line 28 - col. 6 line 23).

Claim 1 differs from Parulski '658 in that the claim further requires a control section for preferentially selecting the high speed mode depending on an image signal from the predetermined portion of the imaging plane, first after a start of the release operation, and for selecting the ordinary mode depending on an image signal from the entirety of the imaging plane, when the control section determines to fail to allow the focusing in the high speed mode. It is noted that Parulski '658 teaches that the focusing section preferentially operates in the high speed mode first (col. 5 line 28 - col. 6 line 23) depending on an image signal from the predetermined portion of the imaging plane (see col. 4 line 65 - col. 5 line 18; col. 5 lines 28-57). The claimed limitation is well known in the art as shown in Suda '060. In the same field of endeavor, Suda teaches an auto-focusing apparatus comprising an image pickup section and a focusing section (see Figs. 6, 8 and 10). Suda further teaches that the center of a focus detecting area can be selectively set according to the focus evaluating values of each focus detecting area (see Figs. 7 & 9; col. 6 line 54 - col. 7 line 8; col. 10 line 48 - col. 12 line 30). Suda further teaches in figures 7(a) and 7(b) that the focus detecting area can be set at a relatively wide state (see col. 9 line 21 - col. 10 line 9. Official notice is taken that it is well known in the art that an entire imaging plane can be used to obtain the focus value). In light of the teaching from Suda, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to have the focusing device taught in Parulski to have a control device as claimed so as to provide a focusing device having high degrees of accuracy and reliability.

As to claim 16, Parulski '658 teaches that the focusing section includes a processor (focus determination circuit 56 and control interface processor 52) which determines an in-focus state by checking after the high speed mode whether a peak value of auto-focusing evaluation values is detected (Fig. 6, col. 4 line 65 - col. 5 line 17; col. 5 line 28 - col. 6 line 23).

5. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski' 658 in view of Suda '060, and further in view of Toji (US #5,694,168).

As to claims 18-19, the claims differ from Parulski and Suda in that they further require that when the focusing section determines whether the first release operation is canceled when the in-focus stat is determined, the focusing section executes an auto-exposure when the first release is canceled and determines whether a second release operation is performed when the first release operation is not canceled. However, it is well known in the art to execute an auto exposure process when the in-focus state has been determined, as taught in Toji ' 168 (see col. 7 lines 11-65). In light of the teaching from Toji, it would have been obvious to one of ordinary skill in the art at the time the invention was made to execute an auto-exposure process when the in-focus state is determined so as to assure that judgment of a peak focus value is not influenced by a brightness of an object, thus providing a reliable focusing apparatus.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nishiyama (US #6,091,452) teaches it is possible to base the focus evaluation value on a portion other than a center of the image. Alternatively, an entire image may be used to obtain the focus evaluation value (col. 5 lines 11-20).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen T. Vu whose telephone number is 703-305-4946. The examiner can normally be reached on Mon. – Fri. from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NGOC-YEN VU
PRIMARY EXAMINER

Art Unit 2612